IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.3248 OF 2005

Fem Care Pharma Ltd. ...Plaintiff.

vs.

Ayn & Getty Exports Pvt.Ltd. ...Defendant.

Mr.Salil Shah i/b. M/s.Gajria & Co., for Plaintiff.

Mr.Z.Kamdin i/b. D.H.Shah, for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 25th June,2007.

P.C.:-

1. The defendant has filed an affidavit dated 14.12.2005. In paragraph 11 of that affidavit, the defendant states thus:-

> "11. In the circumstances I deny that the Defendant has in any manner infringed or passed off any of its goods as those of the plaintiff. I deny that the label or packaging or the get

> up or the layout of the package of the Defendant's goods (as shown in Exhibit 3 hereto) is at all similar to that of the Plaintiff as shown in Exhibit”A” to the Plaint or to the offending packaging as shown in Exhibit “D” to the Plaint. I say that the Defendant has never manufactured or got manufactured or obtained or used the label or the packaging shown in Exhibit “D” to the Plaint or any other mark or label which is identical to or deceptively similar to the Plaintiff's label described in Exhibit “A” to the Plaint and I say that the Defendant has no intention of ever committing any such acts in the future.”

The statements made on behalf of the defendant quoted above are accepted. In view of the above statements, on a motion made by the learned Counsel appearing for plaintiff, the suit is allowed to be withdrawn with liberty to file a suit against proper party. Refund of Court fees as per rules.